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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **MICHELE JEAN DE LA CRUZ**
13 **aka MICHELE DELACRUZ**
14 **and MICHELLE JEAN BARAJAS**
2942 Golden Trails Street
Ontario, CA 91761

Case No. *2013-958*

A C C U S A T I O N

15 Registered Nurse License No. 544880

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Louise R. Bailey, M.Ed., R.N. (Complainant) brings this Accusation solely in she
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board).
22 2. On or about July 7, 1998, the Baord issued Registered Nurse License Number 544880
23 to Michele Jean De La Cruz aka Michele DelaCruz and Michele Jean Barajas (Respondent). The
24 Registered Nurse License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2013, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
2 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
3 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
4 himself or herself, any other person, or the public or to the extent that such use impairs his or her
5 ability to conduct with safety to the public the practice authorized by his or her license.

6 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
7 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
8 or the possession of, or falsification of a record pertaining to, the substances described in
9 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
10 thereof. . . ."

11 9. Section 2764 provides that the expiration of a license shall not deprive the Board of
12 jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision
13 imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an
14 expired license at any time within eight (8) years after the expiration.

15 REGULATORY PROVISION

16 10. California Code of Regulations, title 16, section 1444 states:

17 "A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

21 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
22 subdivision (d) of Penal Code Section 11160. . . ."

23 COST RECOVERY

24 11. Section 125.3 provides that the Board may request the administrative law judge to
25 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
26 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
27 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
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1 case settles, recovery of investigation and enforcement costs may be included in a stipulated
2 settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 12. Respondent is subject to disciplinary action under sections 490 and 2761,
6 subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, in that
7 Respondent was convicted of a crime substantially related to the qualifications, functions or
8 duties of a registered nurse which to a substantial degree evidences her present or potential
9 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or
10 welfare, as follows:

11 a. On or about November 19, 2012, after pleading Nolo Contendere, Respondent was
12 convicted of one misdemeanor count of violating Vehicle Code section 23253(b) [driving with
13 0.08% or above with injury in the criminal proceeding entitled *The People of the State of*
14 *California v. Michele DeLaCruz* (Super. Ct. San Bernadino County, 2012, No.TWV1201701).
15 The Court sentenced Respondent to 10 days jail, placed her on 36 months probation, and ordered
16 her to pay restitution.

17 b. The circumstances underlying the conviction are that on or about May 17, 2012,
18 Respondent was arrested after being involved in a two-vehicle collision with injury. Respondent
19 admitted to officers at the scene that she had consumed two vodka cosmopolitans and 4 tequila
20 shots before driving her vehicle. At the time of her arrest, Respondent's blood alcohol content
21 was 0.27%, more than three (3) times the legal limit.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Alcohol Related Conviction)**

24 13. Respondent is subject to disciplinary action under sections 2761, subdivision (a),
25 and 2762, subdivision (c), on the grounds of unprofessional conduct, in that on or about
26 November 19, 2012, Respondent was convicted of a crime involving alcoholic beverages.
27 Complainant refers to and by this reference incorporates the allegations set forth above in
28 paragraph 12, subparagraphs a and b, inclusive, as though set forth fully.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 14. Respondent is subject to disciplinary action under sections 2761, subdivision (a),
4 and 2762, subdivision (b), on the grounds of unprofessional conduct, in that on or about May 17,
5 2012, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to
6 herself or others. Complainant refers to and by this reference incorporates the allegations set
7 forth above in paragraphs 12 and 13, inclusive, as though set forth fully.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct / Violate Nursing Practice Act)**

10 15. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and /
11 or (d), in that Respondent committed acts of unprofessional conduct and / or acts violating the
12 Nursing Practice Act. Complainant refers to and by this reference incorporates the allegations set
13 forth above in paragraphs 12 - 14, inclusive, as though set forth fully.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 544880, issued to
18 Michelle Jean DeLaCruz aka Michele Jean Barajas;
- 19 2. Ordering Michelle Jean DeLaCruz to pay the the reasonable costs of the investigation
20 and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

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24 DATED: April 23, 2013

Louise R. Bailey
LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

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